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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,371	10/23/2003	Paul C. David	14917.0238US01/305620.01	8445
27488 7590 03/18/2009 MERCHANT & GOULD (MICROSOFT) P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER BARQADLE, YASIN M	
			ART UNIT 2456	PAPER NUMBER
			MAIL DATE 03/18/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/692,371	Applicant(s) DAVID ET AL.	
	Examiner YASIN M. BARQADLE	Art Unit 2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

1. The amendment filed on December 02, 2008 has been fully considered but are not deemed persuasive.

Response to Arguments

Applicant has attempted to disqualify reference US Patent No (7088374) under 35 U.S.C. 103(c) by showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as US Patent No (7088374) at the time this invention was made. However, applicant has failed to provide a conspicuous **statement that the application** and the reference were owned by, or subject to an obligation of assignment to, the same person at the time the invention was made in a conspicuous manner, and therefore, is not disqualified as prior art under 35 U.S.C.

103(a). Applicant must file the required evidence in order to properly disqualify the reference under 35 U.S.C. 103(c). See MPEP § 706.02(I).

The Examiner maintains that the subject matter disclose by David's reference teaches the claimed limitation.

- Claims 6-15 are restricted.
- Claims 1-5 and 16-21 are examined.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated

Claims 1-5 and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by anticipated by David et al US Patent No. (7088374), hereinafter “David”.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As per claim 1, David teaches a method to render a composition on a device (abstract) comprising the steps of:

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sending a create composition node packet for creating a composition (col. 11, lines 7-17); sending at least one create resources packet to create resources for rendering the composition (col. 16, lines 31-47); and sending at least one render update packet to create the composition (col. 15, lines 61 to col. 16 line 4 and col. 16, lines 31-47).

As per claim 2, David teaches the method of claim 1 further comprising the step of sending a create render data resource packet to create a render data resource (col. 16, lines 31-47 and col. 17, lines 21).

As per claim 3, David teaches the method of claim 1 further comprising the step of sending a batch open packet to open a batch process (col. 20, lines 14-42).

As per claim 4, David teaches the method of claim 3 further comprising the steps of: sending a plurality of create resource packets, sending at least one resource update packets and sending a close/commit batch packet (col. 20, lines 14-42 and col. 21, lines 10-32).

As per claim 5, David teaches the method of claim 1 further comprising the step of sending a release command to release a resource (FIG. 14 see connect and disconnect issued command from the compositor (col. 15 lines 6-23 and

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col. 21, lines 10-32).

As per claim 16, David teaches a method to render a composition on a device comprising (abstract) the steps of:

creating a composition node in response to receiving a create composition node packet (col. 15, lines 24-47 and col. 16, lines 31-47); creating at least one resource for rendering the composition in response to receiving at least one create resources packet (col. 15, lines 40 to col. 16, line 9); and creating the composition in response to receiving at least one render update packet (col. 15, lines 40 to col. 16, line 9);.

As per claim 17, David teaches the method of claim 16 further comprising the step of creating a render data resource in response to receiving a create render data resource packet (col. 16, lines 31-47 and col. 17, lines 21).

As per claim 18, David teaches the method of claim 16 further comprising the step of opening a batch process in response to receiving a batch open packet (col. 20, lines 14-42).

As per claim 19, David teaches the method of claim 18 further comprising the step of processing one of at least one create resource packet and at least one resource update packet in response to receiving a close/commit batch packet (col. 20, lines

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14-42 and col. 21, lines 10-32).

As per claim 20, David teaches the method of claim 16 further comprising the step of releasing a resource in response to receiving a release command (col. 20, lines 14-42 and col. 21, lines 10-32).

As per claim 21, David teaches the method of claim 16 further comprising the step of sending a notification in response to receiving a command packet (col. 20, lines 14-42 and col. 21, lines 10-32).

Conclusion

2. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

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no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Yasin M Barqadle/

Primary Examiner, Art Unit 2456